



Guideline

Walsh County Sales and Use Tax

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Introduction

The Walsh County Commission imposed a ¼ percent county sales and use tax effective April 1, 2001. Although the Walsh County sales and use tax is imposed by the Walsh County Commission, the Office of State Tax Commissioner is the collection agent for the tax. The Walsh County tax is reported and remitted on the same tax return as the state sales tax eliminating the need for additional registration, multiple reporting forms and multiple tax payments. The Tax Commissioner's Office assumes full responsibility for collection of the combined taxes including delinquency control, auditing and collection activity.

Imposition of Tax

The Walsh County sales and use tax ordinance parallels state sales and use tax law. All exemptions applicable for state sales and use tax also apply to Walsh County sales and use tax including exemptions for tax exempt entities (schools, government agencies, hospitals, etc.) and some sales to Montana residents.

The proper execution of resale certificates, exemption certificates and processing certificates exempt sales and purchases from state, county and city tax. However, these certificates may not be used to exempt only state or local tax; either the activity is exempt from all state and local taxes or it is subject to all state and local taxes.

Additional Exemptions

In addition to the exemptions provided by state law, the Walsh County tax ordinance provides exemptions for sales of natural gas, farm machinery, farm machinery repair parts, farm irrigation equipment and steam used for processing.

Collection and Payment of Tax

The county sales and use tax is in addition to state and city taxes imposed. County tax is imposed on taxable sales when possession of the goods transfers to the purchaser or the purchaser's agent within Walsh County. Walsh County retailers making taxable retail sales within Walsh County must collect the Walsh County sales tax when the purchaser takes possession of the goods at the retailer's location.

Retailers located outside of Walsh County must collect the Walsh County tax on taxable goods they deliver to the purchaser within Walsh County either by the retailer's own vehicles or by common carrier, if the retailer has sufficient business presence within Walsh County. A sufficient business presence includes, but is not limited to, the following: sales or service people working in Walsh County; regular or frequent deliveries into Walsh County with the seller's own vehicles; property ownership or use including lease or rental within Walsh County; or contractors working in Walsh County on behalf of the retailer.

When a Walsh County retailer delivers goods to a customer outside of Walsh County either by the retailer's delivery vehicles or by common carrier, the sale is exempt from Walsh County sales tax. Likewise, when a purchaser takes possession of the goods at a retailer's location outside of Walsh County, the sale is exempt from the Walsh County tax. However, the purchaser will be subject to county use tax if the purchaser takes the goods into Walsh County for storage, use or consumption. Tax is due on the cost or fair market value of the goods when they enter Walsh County, and is the responsibility of the consumer, not the seller of the goods, to report and pay the county tax liability.

Effective April 1, 2001, leasing or rental companies with property located within Walsh County must collect county sales tax on lease or rental payments, including those contracted prior to April 1, 2001.

Cities Within Walsh County

The following cities are located within Walsh County: Adams, Ardoch, Conway, Edinburg, Fairdale, Fordville, Forest River, Grafton, Hoople, Lankin, Minto, Nash, Ops, Park River, Pisek, Voss and Warsaw.

Cities Within Walsh County With City Taxes

The Walsh County cities of Edinburg, Grafton, Hoople and Park River each impose a 1 percent sales and use tax. Walsh County retailers delivering goods into these cities or having customers take possession of goods within these cities must collect the applicable state sales tax, the Walsh County ¼ percent sales or use tax and the city 1 percent sales or use tax. When a Walsh County retailer delivers goods anywhere else within Walsh County, the retailer must collect North Dakota sales tax and the Walsh County sales tax.

Maximum Tax Amounts

The Walsh County tax ordinance and the tax ordinances for Edinburg, Grafton, Hoople and Park River establish a maximum amount of tax that may be imposed on a single transaction. For purposes of the maximum tax provisions, a transaction is determined by the seller’s normal billing method. Each invoice issued by the seller is considered a transaction and is subject to the county and city tax caps. If a supplier makes multiple deliveries to a customer, but bills all the deliveries in one invoice, only one sale has taken place. If the seller invoices each delivery separately, each delivery is a sale and is subject to the maximum county and city tax amounts.

The maximum tax amount allowed by the Walsh County sales and use tax ordinance is limited to \$25.00 per single sale or purchase transaction ($\$10,000 \times \frac{1}{4}\% = \25). The maximum tax allowed by the local ordinances of Edinburg, Grafton, Hoople and Park River is \$25.00 per sale or 1 percent on the first \$2,500.00. If a taxable sale amount exceeds \$2,500, each tax must be calculated separately. For example, the tax on a \$12,000 sale in Edinburg totals \$650.00 ($\$12,000 \times 5\% = \600 state tax, plus $\$2,500 \times 1\% = \25 Edinburg city tax, plus $\$10,000 \times \frac{1}{4}\% = \25 Walsh County tax; [$\$600 + \$25 + \$25 = \650.00]).

Combined State, County and City Sales Tax Rates

The Office of State Tax Commissioner has developed rate tables, which combine state sales tax, county sales tax and applicable city sales tax. Rate charts are available free of charge from the Office of State Tax Commissioner or may be downloaded from the Tax Commissioner’s web site: www.nd.gov/tax. Effective April 1, 2001, the following combined tax rates apply for retailers located in Walsh County and may be used to determine the correct amount of state, city and county sales tax. The table reflects exemptions granted by the cities and counties that are not allowed by state law.

| | Combined State, City* (1%) and County* (1/4%) Sales Tax Rates for Walsh County When Customer Takes Possession In: | | | | | |
|---|---|----------|---------|--------|------------|------------------------------|
| | North Dakota Rate | Edinburg | Grafton | Hoople | Park River | Other Walsh County Locations |
| Natural Gas | 2% | 3% | 2% | 2% | 3% | 2% |
| Used Irrigation Equipment | 1½% | 2½% | 1½% | 1½% | 2½% | 1½% |
| Used Farm Machinery & Equipment; New & Used Farm Machinery Repair Parts | 1½% | 1½% | 1½% | 1½% | 1½% | 1½% |
| New Irrigation Equipment | 3% | 4% | 3% | 3% | 4% | 3% |
| New Farm Machinery | 3% | 3% | 3% | 3% | 3% | 3% |
| Alcoholic Beverages | 7% | 8¼% | 8¼% | 8¼% | 8¼% | 7¼% |
| Rental of Hotel, Motel, Tourist Court Accommodations | 5% | 6¼% | 8¼%** | 6¼% | 6¼% | 5¼% |
| New Mobile Homes | 3% | 4¼% | 4¼% | 4¼% | 4¼% | 3¼% |
| Steam (other than steam used for processing agricultural products) | 5% | 6% | 5% | 5% | 6% | 5% |
| All Others | 5% | 6¼% | 6¼% | 6¼% | 6¼% | 5¼% |

* County and city taxes are limited to \$25 per sale
** Combined rate includes Grafton 2 percent City Lodging Tax

Contractors

Contractors and subcontractors who use tangible personal property in the performance of construction contracts within Walsh County are subject to the Walsh County use tax. County use tax may be paid directly to the seller of the material or may be accrued by the contractor for payment to the Office of State Tax Commissioner. As is the case under state law, a contractor or subcontractor is subject to use tax regardless who owns the goods unless county sales or use tax already has been paid on the goods.

Construction material purchased within Walsh County for use inside the county is subject to county tax. Construction material purchased from a Walsh County retailer but delivered by the retailer outside Walsh County for use outside the county is not subject to the county tax. Contractors that take delivery of materials inside Walsh County but provide a contractor’s certificate to avoid payment of the tax at the time of purchase, are subject to Walsh County use tax when the goods are installed regardless whether the goods are used inside or outside of Walsh County. Construction material purchased outside of Walsh County but used inside Walsh County is subject to county use tax if the materials already have not been subjected to a combined tax at the applicable state, city and county rate.

It is important to note that the \$25.00 county tax cap is calculated on each material purchase a contractor makes to fulfill a construction contract, not on purchase orders or the entire construction contract itself. Accordingly, most construction activity that is subject to county sales or use tax will include more than \$25.00 in total county tax costs.

For purposes of the \$25.00 county tax cap, a purchase or sale is determined by the seller’s normal billing method. Each invoice issued by the seller is considered a sale and is subject to the \$25.00 county tax cap. If a supplier makes multiple deliveries to a job site but bills all the deliveries in one invoice, only one sale has taken place. However, if the seller invoices each delivery separately, each delivery is a sale and is subject to the \$25.00 sales tax cap.

Walsh County sales and use tax does not apply to construction material used to fulfill contracts bid prior to April 1, 2001.